

**701—63.17(452A) Taxes erroneously or illegally collected.** Any licensee, including licensed motor fuel distributors, licensed special fuel distributors, and licensed special fuel dealers, and licensed special fuel users, is entitled to a return of taxes, penalty, and interest erroneously or illegally collected by the department. The request for the return of the taxes must be (1) in writing, (2) filed with the department within one year of the time the tax was paid, (3) filed by the licensee who remitted the tax to the department, and (4) must be accompanied by the proof required in this rule. If the erroneous collection was the result of a computational error on the part of the taxpayer and that error is discovered by the department, during an examination of the taxpayer's records within three years of the overpayment, the taxes will be credited or refunded and a written request will not be necessary. If the request for credit includes the return of erroneously or illegally collected (assessed) penalty or interest, the interest or penalty shall be refunded in the same proportion as the tax. A refund or credit requested under Iowa Code section 452A.72 shall be reduced by sales tax if applicable. There is no minimum credit or refund amount for credits and refund claimed under the provisions of Iowa Code section 452A.72. See sales tax rule 701—18.37(422,423).

**63.17(1) Motor fuel distributors.** Motor fuel distributors must inform the department upon which bill(s) of lading, by number, and upon which monthly report(s) the tax was erroneously paid.

For periods prior to September 1, 1981. The gallonage upon which a credit is requested by a motor fuel distributor shall be reduced by either 3 or 1¼ percent or a combination of the two, whichever is applicable. If the gross gallonage total for the month for which the credit is claimed remains above 300,000 gallons after being reduced by the gallonage upon which the credit is claimed, the credit will be reduced by 1¼ percent. If the gross gallonage total for the month for which the credit is claimed was below 300,000 gallons, the credit will be reduced by 3 percent. If the gross gallonage total for the month for which the credit is claimed exceeded 300,000 gallons, when the tax was originally paid, the credit request will reduce the gallonage below 300,000 gallons, the gallonage which was originally in excess of 300,000 gallons will be reduced by 1¼ percent, and the remainder of the gallonage upon which the credit is based will be reduced by 3 percent.

For periods after August 31, 1981. The gallonage upon which a credit is requested by a motor fuel distributor shall be reduced by either 2 or 1 percent or a combination of the two, whichever is applicable. If the gross gallonage total for the month for which the credit is claimed remains above 300,000 gallons after being reduced by the gallonage upon which the credit is claimed, the credit will be reduced by 1 percent. If the gross gallonage total for the month for which the credit is claimed was below 300,000 gallons, the credit will be reduced by 2 percent. If the gross gallonage total for the month for which the credit is claimed exceeded 300,000 gallons when the tax was originally paid, the credit request will reduce the gallonage below 300,000 gallons, the gallonage which was originally in excess of 300,000 gallons will be reduced by 1 percent, and the remainder of the gallonage upon which the credit is based will be reduced by 2 percent.

If the error was the result of two persons paying the tax on the same motor fuel, the person requesting the credit must also inform the department which other party paid the tax. If the department determines that the person requesting the credit is the person responsible for the tax, the other person who paid the tax will be entitled to the credit. Motor fuel distributors are entitled to a credit which may be applied against future tax liabilities. (See 701—subrule 64.7(1).) If the request for the return of taxes erroneously paid is in excess of the average monthly tax liability of the taxpayer, computed on the previous 12 tax periods, the taxpayer may request a refund warrant in lieu of a credit.

**63.17(2) Special fuel distributors.** Special fuel distributors must inform the department upon which invoices, by invoice number, and upon which monthly or quarterly report(s) the tax was erroneously paid. If the erroneous payment was due to the fact that the distributor sold the fuel tax-paid instead of tax-free, the request for credit must also include the name of the person to whom the fuel was sold and either the (1) purchaser's license number, (2) a statement signed by the purchaser setting forth the reason(s) for nontaxability, or (3) a copy of an exemption certificate signed by the purchaser, whichever is applicable. If the request for return of taxes erroneously paid is in excess of the average quarterly tax liability of the taxpayer, computed on the previous four tax periods, the taxpayer may request a refund warrant; otherwise, the distributor will be allowed a credit.

**63.17(3)** *Licensed special fuel dealers and users.* If a licensed special fuel user or dealer is requesting a return of taxes because of noninclusion of an exemption certificate(s), a copy of the certificate(s) must accompany the request. (The original must be retained by the user or dealer.) If a licensed special fuel user or dealer is requesting a return of taxes because of inaccurate meter readings due to meter repair, an affidavit signed by the persons responsible for the meter repair setting out the affected meter readings must accompany the request. If the request for return of taxes erroneously paid is in excess of the average monthly tax liability of the user or dealer, computed on the previous 12 tax periods, the user or dealer may request a refund warrant; otherwise, the dealer or user will be allowed a credit.

This rule is intended to implement Iowa Code sections 452A.8(7) as amended by 1994 Iowa Acts, Senate File 2057, and 452A.72.